

What You Need to Know – Legislative Updates for Delivery of Health Care in Ontario

January 30, 2018



The Ministry of Health and Long-Term Care was exceptionally busy in the last couple of months. The purpose of this bulletin is to provide you an update on some significant initiatives that were completed by the Government as of January 1, 2018 and to make educated guesses on what we might see in the months ahead.

Diagnostic Medical Sonography

1. Diagnostic medical sonographers are regulated as a new specialty under the jurisdiction of the College of Medical Radiation Technologists of Ontario (CMRTO), effective January 1, 2018.
2. As of January 1, 2018, the application of soundwaves for diagnostic ultrasound is still in the public domain if there is an order from certain regulated health professionals and certain conditions are met. However, there are some changes to the regulated health professionals who may order and/or perform diagnostic ultrasound procedures:
 - (a) members of the College of Midwives of Ontario (CMO) may both order and perform pregnancy diagnostic ultrasounds and pelvic diagnostic ultrasounds.
 - (b) members of the College of Nurses (CNO) registered in the extended class ("nurse practitioners") may order and perform all diagnostic ultrasound procedures.
 - (c) members of the CNO may perform diagnostic ultrasound procedures provided that the member has a therapeutic nurse-patient relationship and the purpose of the procedure is conducting a routine nursing assessment.
 - (d) members of the College of Physicians and Surgeons of Ontario (CPSO) may order and perform all diagnostic ultrasound procedures. (not new)

As of January 1, 2019, the performance of an ultrasound procedure for diagnostic purposes will no longer be in the public domain. Only the regulated health professionals listed in Item 2 above and the regulated health professionals set out below will be authorized to perform diagnostic ultrasound procedures:

- (a) members of the CMRTO; and
- (b) members of the CNO who are registered nurses or registered practical nurses.

There must be an order from a member of CPSO, a nurse practitioner, or a member of CMO (in the case of a pregnancy or pelvic diagnostic ultrasound) and certain other conditions must be met.

Controlled Act of Psychotherapy

1. As of December 30, 2017, psychotherapy (as defined under the Regulated Health Professions Act, 1991 (RHPA)) ¹is proclaimed as a controlled act under the RHPA.
2. As of December 30, 2017, the following regulated professionals may perform the controlled act of psychotherapy:

(a) members of the Ontario College of Social Workers and Social Service Workers (OCSWSSW), in compliance with the Social Work and Social Service Work Act, 1998, its regulations and by-laws.²

(b) members of the CNO. Except for nurse practitioners, there will need to be an order from a nurse practitioner or certain other regulated health professionals (unless there is a regulation that permits a registered nurse or registered practical nurse to perform the procedure without an order).

(c) members of the College of Psychologists of Ontario (CPO).

(d) members of CPSO.

(e) members of the College of Occupational Therapists of Ontario (COTO), provided they perform the controlled act in accordance with regulations made under that Act.

(f) members of the College of Registered Psychotherapists of Ontario (CRPO).

As of December 30, 2017, members of the following regulated professions may use the title “psychotherapist”, provided they comply with certain conditions:

(a) members of the OCSWSSW; ³

(b) members of the CNO; ⁴

(c) members of the CPO; ⁵

(d) members of the CPSO; ⁶

(e) members of the COTO; ⁷

(f) members of the CRPO (They can also use the title “registered psychotherapist” and “registered mental health therapist”). ⁸

Until December 31, 2019, any person in Ontario can perform the controlled act of psychotherapy without being in contravention of the RHPA but the person is not authorized to call themselves a psychotherapist or registered psychotherapist.⁹

Ordering X-rays

As of April 1, 2018, the following regulated health professions will be authorized to order x-ray procedures:

- (a) physicians. (not new)
- (b) members of the College of Chiropractors of Ontario. (not new)
- (c) certain members of the College of Chiropodists of Ontario. (not new) ¹⁰
- (d) members of the Royal College of Dental Surgeons of Ontario. (not new)
- (e) nurse practitioners with respect to any x-ray procedure. (expanded) ¹¹
- (f) members of the College of Physiotherapists of Ontario in a manner permitted by regulations made under the *Healing Arts Radiation Protection Act*.¹²

Retirement Homes

The Retirement Homes Regulatory Authority (Authority) licenses and regulates retirement homes under the *Retirement Homes Act, 2010* (RHA). As of December 12, 2017, the Authority has more powers to deal with unlicensed homes. Inspectors may enter an unlicensed retirement home to ensure compliance with a Registrar's order to cease to operate. Inspectors may also enter the home if they suspect there may be harm to residents resulting from a home's failure to obtain a licence or comply with the RHA. In addition, the Registrar may apply to the Superior Court of Justice for an order directing a person to comply with the RHA or a Registrar order.

The Authority now has the ability to disclose information to a person that administers or enforces another Act (for example, to a health regulatory College). The disclosure must be to aid that person in an inspection, investigation or enforcement. The information must relate to compliance with the RHA or a serious incident relating to a home.¹³

Stay tuned

Here is a non-exhaustive list of Ministry initiatives that may be completed through additional legislative steps prior to the provincial election in June, 2018.

1. A date to proclaim the *Medical Radiation and Imaging Technology Act, 2017* may be set. The *Medical Radiation Technology Act, 1991* would be revoked and replaced by the *Medical Radiation and Imaging Technology Act, 2017* on such date. Among other things, the name of the CMRTO will be changed to the College of Medical Radiation and Imaging Technologists of Ontario. The name of the profession will be changed to the medical radiation and imaging technology profession. The scope of practice will expressly include the application of diagnostic sound waves for diagnostic purposes.¹⁴ The title "diagnostic medical sonographer" will become a protected title. This means that no person in Ontario would be permitted to call themselves a diagnostic medical sonographer unless they are a member of the College of Medical Radiation and Imaging Technologists of Ontario.
2. Proclamation of amendments to the RHPA and certain regulations may be made under the RHPA relating to a number of matters including:

- (a) the composition of the committees required under the Health Professions Procedural Code, Schedule 2 to the RHPA (that is, the Executive; Registration; Inquiries, Complaints and Reports (ICR); Discipline; Fitness to Practise; Quality Assurance; and Patient Relations Committees).
- (b) the composition and quorum for panels of the Registration, ICR, Discipline and Fitness to Practise Committees.

- (c) additional information to be added to the register such as information related to criminal convictions and criminal charges.
- (d) requirements for members to report to health regulatory Colleges about their membership in other regulatory bodies, both inside and outside of Ontario, and findings of professional misconduct or incompetence made by such regulators.
- (e) requirements for members to report to health regulatory Colleges information regarding charges for offences and any bail and other conditions related to such charges.

1. The *Oversight of Health Facilities and Devices Act, 2017* or portions of it, may be proclaimed in force and regulations may be made under that Act including, among other matters, regulations to define a “community health facility”.¹⁵ Cabinet may appoint one or more persons as the executive officer for community health facilities and energy applying and detecting medical devices.
2. Expanded scopes of practice for certain regulated professions including physiotherapists, dietitians, and chiropractors, among others, to order x-rays, laboratory tests and diagnostic ultrasound procedures. The Minister of Health and Long-Term Care announced the intention to consider expansion to scopes of practice under an assessment model developed by the Ministry called the Model for the Evaluation of Scopes of Practice in Ontario.
3. If Schedule 22 of *Stronger, Healthier Ontario Act (Budget Measures), 2017* is proclaimed and regulations made, registered nurses would have the authority to prescribe drugs designated in the regulations.¹⁶

The above describes a few of the matters that the government has completed and may be able to complete before the election in 2018. They all have far reaching effect on the delivery of health care services in Ontario. Many of these initiatives have been a longtime coming. Some might save, overdue. We will continue to keep you abreast of developments as they occur.

[1] “Controlled act of psychotherapy” is defined as “treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual’s serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual’s judgement, insight, behaviour, communication or social functioning”, para. 14 of ss 27(2) of the RHPA.

[2] RHPA, ss 27(4).

[3] *Social Work and Social Service Work Act, 1998*, s. 47.2.

[4] RHPA, s. 33.1.

[5] *ibid.*

[6] *ibid.*

[7] *ibid.*

[8] *Psychotherapy Act, 2007*, ss. 8(1).

[9] Controlled Acts Regulation made under the RHPA, O. Reg. 107/96, s.7.2.

[10] As a practical matter, this means that members of the podiatrist class and chiropractors who have graduated from a 4 year program can order x-rays.

[11] *Healing Arts Radiation Protection Act*, para. 6(1)(g).

[12]*Healing Arts Radiation Protection Act*, ss 6(2). Regulations will need to be made before members of the College will be able to order x-ray procedures.

[13]*Retirement Homes Act, 2010*, S.O.2010, c.11.

[14]The scope of practice of medical radiation technology already covers the application of soundwaves for diagnostic purposes as a result of a regulation made under *Medical Radiation Technology Act, 1991*, O. Reg. 226/03.

[15]*Oversight of Health Facilities and Devices Act, 2017* defines “community health facility” as (a) a place or a collection of places where one or more services prescribed in regulations made by the Minister are provided, and includes any part of such a place, and (b) a place or collection of places prescribed in regulations made by the Minister, s. 1.

[16]Under the *Nursing Act, 1991*, nurse practitioners are currently authorized to prescribe, dispense, sell and compound a drug in accordance with the regulations.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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